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MAILED

MAR 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Cinderella Christina GERHARDT, et al	:	
Application No. 10/519,657	:	DECISION ON PETITION
Filed: December 22, 2004	:	
Attorney Docket No. F7649(V)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 7, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1654 for appropriate action by the Examiner in the normal course of business on the reply received January 20, 2009.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Thurman Page
Petitions Examiner
Office of Petitions

Attorney Docket No.: F7649(V)
Serial No.: 10/519,657
Filed: December 22, 2004
Confirmation No.: 9203

(1) "Grantable"
missing
from
statement

PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.137(b)
TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION

Sir:

Applicants submit this Petition to the Commissioner under 37 C.F.R. 1.137(b) for revival of the above-identified application which became abandoned for failure to reply to the Office Action dated April 7, 2008. If required, please deduct from Deposit Account No. 12-1155 a fee for a three month extension of time which would have been required to extend the period of time for responding to the April 7, 2008 Office Action from July 7, 2008 to October 7, 2008.

Please deduct One Thousand, Five Hundred and Forty Dollars (\$1,540.00) from Deposit Account No. 12-1155 for filing a petition to revive.

On April 21, 2008, applicants' attorney filed an Information Disclosure statement via EFS. The EFS receipt for this submittal was processed by our Office Manager (Linda M. Horvath), who unintentionally entered the IDS submission as if it were a reply to the outstanding Office Action. As the consequence of this mistaken entry, the attorney's due date docket no longer listed the due date for the response to the Office Action. Please see the supporting Declaration by Linda M. Horvath.

The subject application was abandoned when applicants failed to send in the response to the Office Action. This abandonment was unintentional since it was applicants' attorney's intention to submit the Response to the Office Action. It was clearly not applicants' nor applicants' attorney's intention to fail to submit the response to the outstanding Office Action.

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The failure to submit the response only recently come to applicants' attorney's attention upon the receipt of unexpected Notice of Abandonment.

As indicated by the foregoing remarks, applicants did not intend to abandon the subject application. The entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

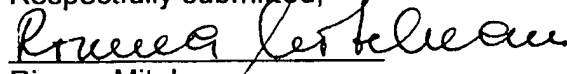
In accordance with 37 C.F.R. § 1.137(b):

- (1) Applicants again state that abandonment of the application was unintentional and the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.
- (2) a proposed Amendment and Response to the Office Action dated April 7, 2008 and Supplemental Information Disclosure are being filed at this time; and
- (3) authorization has been given to pay the petition fee set forth in § 1.17(m).

Since applicants have complied with all the requirements set forth in the rules, applicants respectfully request that the subject application be revived.

If any fees, other than the petition fee are deemed necessary in connection with filing of this petition, authorization is hereby given to charge the amount of such fee to Deposit Account No. 1201155.

Respectfully submitted,



Rimma Mitelman
Registration No. 34,396
Agent for Applicant(s)

RM/sa
(201)894-2671

Attorney Docket No.: F7649(V)
Serial No.: 29/247,372
Filed: June 14, 2006
Confirmation No.: 7053

DECLARATION

Sir:

I, Linda M. Horvath, residing at of 44 Heuer Street, Little Ferry, New Jersey 07643 declare as follows:

1. I am a citizen of the United States.
2. I am employed by Unilever United States, Inc., in the Patent Group. My title is Manager, Patent Administration. Our Group handles patent prosecution and other patent related work for Unilever Bestfoods, Conopco, Inc. to whom the above-identified application is assigned.
3. I know that the Patent Office has mailed a Notice of Abandonment in the above-identified application.
4. I remember and I have a record (attached) of processing the Submission of the Information Disclosure Statement submitted on 21 April 2008 to the Patent Office. I entered this submission into our internal docketing system. I believe that I mistakenly checked off that the Response was submitted to the outstanding Office Action dated April 7, 2008 instead of processing it as an IDS submission. Once the response is checked off as "taken", the corresponding action will not come up on the docket of due dates for an attorney. Consequently, the due date of the Office Action dated April 7, 2008 did not appear on the attorney's docket. The mistake was realized when the Notice of Abandonment was received by our Patent Group.

Attorney Docket No.: F7649(V)
Serial No.: 29/247,372
Filed: June 14, 2006
Confirmation No.: 7053

5. My mistake was unintentional and it did not reflect anyone's intention to not respond to an outstanding Office Action.
6. I hereby declare that all statement made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such wilful false statements may jeopardize the validity of the application or of any patent issuing thereon.

11/15/09
Date


Linda M. Horvath

Electronic Acknowledgement Receipt

EFS ID:	3184132
Application Number:	10519657
International Application Number:	
Confirmation Number:	9203
Title of Invention:	Satiety inducing composition
First Named Inventor/Applicant Name:	Cinderella Christina Gerhardt
Customer Number:	201
Filer:	Milton L. Honig/Marypat Kieselbach
Filer Authorized By:	Milton L. Honig
Attorney Docket Number:	F7649(V)
Receipt Date:	21-APR-2008
Filing Date:	22-DEC-2004
Time Stamp:	16:32:20
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 180
RAM confirmation Number	1907
Deposit Account	121155
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. 1.492 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)	

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees)

• Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Information Disclosure Statement Letter	F7649-IDS042108.pdf	83982	no	2
			c6362bc4ab92fa30636ebbc4f39049f6a0910d		
Warnings:					
Information:					
2	Information Disclosure Statement (IDS) Filed	F7649-PTO1449042108.pdf	84270	no	1
			c279ad05d91a2f6cb140a4d9a94a2f41c675351		
Warnings:					
Information:					
This is not an USPTO supplied IDS fillable form					
3	Foreign Reference	F7649-Foreign.pdf	6668742	no	126
			f7b4448330da93f12a239dc0c3b5b0d55681be9		
Warnings:					
Information:					
4	Fee Worksheet (PTO-06)	fee-info.pdf	8193	no	2
			5d4591e96d3c26e7a7e2ea9fcb32890ff120626c		
Warnings:					
Information:					
Total Files Size (in bytes):			6845187		

RAM Fee History
Query
Revenue Accounting and Management

Name/Number: 10519657

Total Records Found: 17

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
01/21/2009	00017335	<u>4</u>	<u>1453</u>	\$1,620.00	01/20/2009	DA 121155
01/21/2009	00017336	<u>4</u>	<u>1806</u>	\$180.00	01/20/2009	DA 121155
09/15/2008	00010880	<u>4</u>	<u>1806</u>	\$180.00	09/15/2008	DA 121155
05/14/2008	00004252	<u>4</u>	<u>1806</u>	\$180.00	05/13/2008	DA 121155
04/22/2008	00003133	<u>4</u>	<u>1806</u>	\$180.00	04/21/2008	DA 121155
03/04/2008	00005659	<u>4</u>	<u>1252</u>	\$460.00	03/03/2008	DA 121155
03/04/2008	00005664	<u>4</u>	<u>1806</u>	\$180.00	03/03/2008	DA 121155
03/04/2008	00005660	<u>4</u>	<u>1801</u>	\$810.00	03/03/2008	DA 121155
02/26/2008	00013559	<u>4</u>	<u>1806</u>	\$180.00	02/26/2008	DA 121155
08/14/2007	00004166	<u>4</u>	<u>1251</u>	\$120.00	08/13/2007	DA 121155
12/16/2005	00000395		<u>8021</u>	\$40.00	10/18/2005	DA 121155
08/25/2005	00000007	<u>1</u>	<u>1201</u>	\$200.00	12/22/2004	DA 121155
06/27/2005	00000007	<u>1</u>	<u>1632</u>	-\$500.00	12/22/2004	DA 121155
06/27/2005	00000008	<u>1</u>	<u>1642</u>	\$400.00	02/01/2005	DA 121155
01/11/2005	00000375	<u>1</u>	<u>1631</u>	\$300.00	12/22/2004	DA 121155
01/11/2005	00000376	<u>1</u>	<u>1632</u>	\$500.00	12/22/2004	DA 121155
01/11/2005	00000377	<u>1</u>	<u>1633</u>	\$200.00	12/22/2004	DA 121155
